



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

UNITED STATES OF AMERICA

V.

YONGUE JOHN GROGAN

§
§
§
§
§

CASE NO. 1:05-CR-136(4)

MEMORANDUM ORDER ADOPTING REPORT AND RECOMMENDATION


Pending before the Court is *Defendant's Motion for Government to Disclose to the Defendant the Identity and Contact Information of its Confidential Informant* [Clerk's doc. #77]. The Court referred the motion to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for entry of a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court for the Eastern District of Texas. *See Order* [Clerk's doc. #123].

Having conducted the proceedings in the form and manner prescribed by the Federal Rules of Criminal Procedure, the magistrate judge issued his *Report and Recommendation* on the motion for disclosure [Clerk's doc.#177]. Judge Giblin recommended that the Court deny *Defendant's Motion for Government to Disclose to the Defendant the Identity and Contact Information of its Confidential Informant*.

Defendant timely filed objections to the magistrate's recommendation. *See Defendant's Objections* [Clerk's doc. #183]. In the *Objections*, Defendant specifically contends that the magistrate judge misapplied *Roviaro v. United States*¹ and *United States v. Edwards*² to the situation in this case. *See Objections*. He also argues that, under *Franks v. Delaware*³, he has a Fourth Amendment right to attack the accuracy of the search warrant at issue, and, therefore, should be able to discover the identity of the information for the purposes of a *Franks* suppression hearing.

Pursuant to Defendant's request and in accordance with 28 U.S.C. § 636(b)(1), the Court conducted a *de novo* review of the magistrate's findings, the record, Defendant's *Objections*, and the applicable law in this proceeding. After review, the Court is of the opinion that the *Report and Recommendation* should be accepted. Accordingly, the Court **ORDERS** that Judge Giblin's *Report and Recommendation* [Clerk's doc. #177] is **ADOPTED**. The factual findings and legal conclusions of the magistrate judge are, therefore, fully incorporated by the Court in support of this order. The Court finally **ORDERS** that *Defendant's Motion for Government to Disclose to the Defendant the Identity and Contact Information of its Confidential Informant* [Clerk's doc. #77] is **DENIED**.

SIGNED this the 10 day of **March, 2006**.


Thad Heartfield
United States District Judge

¹ 353 U.S. 53 (1957).

² No. 04-4044, 133 Fed. Appx. 960, 2005 U.S. App. LEXIS 10655, 2005 WL 1349824 (5th Cir. June 8, 2005) (per curiam).

³ 438 U.S. 154 (1978).